

Approved For Release 2001/09/03 : CIA-RDP84-00709R000400070176-8

OGC Has Reviewed

POST DIFFERENTIAL:

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Finance Division, CSC

28 June 1950

Legal Staff

Audit Division Memoranda A-142, 150, 151, 152 and 154.

1. Your memorandum of 11 June 1950 forwarded subject memoranda to this office with a recommendation for rulings in each case. Since all the items questioned relate to foreign post differential, it may be helpful to refer to our memorandum to the Executive of 30 January 1950, a copy of which is attached hereto for your information. There are some general observations which we would like to make, and then for purposes of clarity we will answer, in order, the questions presented in each case.
2. Foreign post differential is authorized for CIA employees under Executive Order 10000 and Section 6.4 of the Confidential Funds Regulations. Executive Order 10000 is our basic authority, and Section 106 of that same provision in pertinent part, that: "Payments shall begin as of the date of arrival at the post of assignment, transfer, or detail and shall stop as of departure from the post for separation, transfer, or detail," and that "payments shall be made for all periods of sick leave and annual leave taken during" this period and for transit time authorized for purposes of such leave, provided that payment of the post differential will not be made for any time during which the employee is not receiving basic compensation. In distinguishing "detail" from "temporary duty," we wish to point out that "detail" is determined by the nature of the work and not by the period of time involved. Previous instructions to the field that temporary duty in excess of 30 days should be considered "detail" are inconsistent with the inherent nature of this type of duty and should not be enforced to deny the employee post differential to which he is otherwise entitled. While there is no need to restate the provisions of paragraph 6.4.c. of the Confidential Funds Regulations, we would like to emphasize subparagraph 2 by which the Agency exercises a somewhat more restrictive control than that provided under Foreign Service Serial No. 922. The effective date (see 6.4.c(1)) is made retroactive only back to 1 January 1949, and since payments have actually been made under the authority of Executive Order 10000 beginning with 19 September 1948, a corrective change will be recommended.

3. Memorandum No. A-142.

Question 1. Yes

Question 2. Insofar as the determination of "detail" is made on the basis of time rather than the nature of the work, these cables would not be controlling.

Question 3. From the facts presented, it would appear that the employee is entitled to post differential for the period from 14 September to 19 December 1949, provided the latter date is the time at which a determination was actually made to change his post. In view of the confusing evidence on the face of the personnel record, it appears that the amendment to the travel orders dated 19 December 1949 is probably the best proof.

4. Memorandum No. A-150.

Item A. This appears to be a simple matter of administrative omission, and payment should be made accordingly.

Item B. Payment can be made to correct the erroneous application of a 10% rather than a 25% differential.

Item C. We have already commented on the nature of "detail," and if the employee assumed duties which would meet this definition, her foreign post differential would cease at that time. Otherwise, it would continue until there was a definite formulated intention to change her station. Assuming that she informed no "detail" as such, the first clear evidence of an intention to change her station was 1 June (personal transfer letter) and post differential would be properly payable from 23 February to 1 June.

5. Memorandum No. A-151.

Subject to our preceding remarks regarding "detail," we see no objection to payment of the post differential in this case from 19 September through 28 December 1948.

6. Memorandum No. A-152.

Travel here "in technical compliance with regulations" would be only that compliance which would redound to the employee's personal economic benefit, and we cannot, at this point, say that it would have been to the disadvantage of the Government. As a matter of fact, unless direct travel to the ultimate destination would have reflected an operational need, the employee's action might well have been subject to question if he had not stopped at the TBY points en route. The essential fact remains that at the time he left his old post, his right to foreign post differential ceased and it was not renewed until he arrived at his new post. The disallowance is therefore proper.

7. Memorandum No. A-153.

This is much the same as the preceding memorandum, and items B, and C, should be corrected for underpayment. Item A is subject to our preceding remarks in regard to "detail," and unless there was at some time an actual detail involved, the employee is entitled to payment of the post differential for the period 19 September - 30 November 1948. However, it is our understanding that [REDACTED] was his permanent station at the time he was [REDACTED] on temporary duty. If this temporary duty does not meet the requirements of a "detail," he would be entitled to the

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post differential at the rate established on 19 September for his home station, [REDACTED] which we understand was 25% rather than 10%.

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[REDACTED] tlm
cc: Subject
Chrono
Legal Decisions

Attach: 6

Cpy of ltr add 30 Jan. 1950 to Executive.

Audit Report

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